

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JAMES ANTHONY BROOKS,

Plaintiff,

-v-

1:24-CV-970 (AJB/ML)

ALBANY STRATTON VETERANS
HOSPITAL, ALBANY STRATTON
VETERANS HOSPITAL EMERGENCY
ROOM and DR. JENNIFER KEIFFER,

Defendants.

APPEARANCES:

OF COUNSEL:

JAMES ANTHONY BROOKS
Plaintiff, Pro Se
Albany, NY 12210

Hon. Anthony Brindisi, U.S. District Judge:

ORDER ON REPORT & RECOMMENDATION

On August 7, 2024, *pro se* plaintiff James Anthony Brooks (“plaintiff”) filed this complaint alleging violations pursuant to 28 U.S.C. § 1331. Dkt. No. 1. Broadly speaking, the complaint alleges that plaintiff received insufficient care provided by defendants while the plaintiff was seeking treatment at Albany Stratton Veterans Hospital (“ASVH”). *See id.* After an initial review, on January 7, 2025, U.S. Magistrate Judge Miroslav Lovric granted plaintiff’s application to proceed *in forma pauperis* (Dkt. No. 2) and recommended that plaintiff’s complaint be dismissed without prejudice and with leave to replead. Dkt. No. 5.

Magistrate Judge Lovric informed Plaintiff that he had fourteen days within which to file written objections to the report under 28 U.S.C. § 636(b)(1), and that the failure to object to the

report within fourteen days would preclude appellate review. *Id.* at 12. Plaintiff has not lodged objections.

The matter has recently been reassigned to this Court for a decision. Dkt. No. 6. Upon review for clear error, the R&R will be accepted and adopted. *See* FED. R. CIV. P. 72(b).

Therefore, it is

ORDERED that

1. The Report & Recommendation (Dkt. No. 14) is ACCEPTED;
2. The complaint is DISMISSED WITHOUT PREJUDICE and WITH LEAVE TO REPLEAD pursuant to 28 U.S.C. § 1915(e)(2)(B);
3. Any amended complaint must be filed within thirty (30) days of the date of this Order. Any amended complaint must be a complete pleading which will replace the current complaint in total;
4. If Plaintiff files a timely amended complaint, it shall be referred to Magistrate Judge Lovric for review;
5. If Plaintiff fails to file a timely amended complaint, the Clerk shall close this case without further order;
6. The Clerk shall serve a copy of this Order on Plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: January 28, 2025
Utica, New York.


Anthony J. Brindisi
U.S. District Judge